

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ROBERTO PEREZ,

Plaintiff,

v.

LORIE DAVIS, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:21-CV-00007-RWS

ORDER

Plaintiff Roberto Perez, proceeding *pro se*, filed the above-styled and numbered civil action complaining of alleged violations of his constitutional rights. The case was referred to the United States Magistrate Judge.

Plaintiff was ordered to pay the statutory filing fee or to seek leave to proceed *in forma pauperis* in accordance with 28 U.S.C. § 1915(b). Docket No. 2. By separate order, Plaintiff was directed to submit an amended complaint setting forth a short and plain statement of his claims. Docket No. 3. When he did not comply with these orders, the Magistrate Judge issued a Report recommending the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 5 (“Report and Recommendation”). Plaintiff received a copy of the Report and Recommendation on April 23, 2021, but has not filed objections.

Because no objections to the Magistrate Judge’s Report have been filed, neither party is entitled to *de novo* review by the District Judge of those findings, conclusions and recommendations, and except upon grounds of plain error, they are barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District

Court. 28 U.S.C § 636(b)(1)(C); *Douglass v. United Services Automobile Assoc.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).


Nonetheless, the Court has reviewed the Report and Recommendation and agrees with it. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants.’ ”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)). It is accordingly

ORDERED that the Report of the Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that to prevent this dismissal from acting as a dismissal with prejudice by reason of limitations, the statute of limitations is **SUSPENDED** for a period of 90 days following the date of entry of final judgment. Any claims already barred by limitations at the time this lawsuit was filed will remain barred.

So ORDERED and SIGNED this 11th day of June, 2021.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE